

REMARKS/ARGUMENTS

The Office Action Mailed October 9, 2007:

The Action has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Status of the Claims:

Claims 3, 4 18, 25, 26 and 37 have been allowed.

Claims 1, 2, 5, 10 to 12, 19, 24, 27, 32 and 38 have been rejected.

Claims 6 to 9, 13 to 17, 20 to 23, 28 to 31, 33 to 36, 39 and 40 have been withdrawn from consideration.

Telephonic Interviews with the Examiner:

Telephonic interviews between Applicants' undersigned attorney and Examiner Gilbert were held on October 24, 2007 and October 30, 2007. These interviews were initiated by Applicants' attorney.

During the course of the interviews, Claim 1 and the amendments thereto shown in the accompanying listing of the claim were discussed. Applicants' attorney argued that the claim, even before the present amendments, distinguished from the references to Yung (U.S. Patent No. 4,835,933) and Robb (U.S. Patent No. 3,830,032), in the following respects:

1. The legs 25-27 of the Yung patent do not have free end portions which are separate to provide free access between the legs. Rather, Yung's legs are tied together by an encircling plate portion 20, which restricts access therebetween.

2. The plate portion 20 of Yung cannot be accurately characterized as a foot on the distal end of each leg. The feet in Yung are the elements 21-23 which extend downwardly from the plate.

3. The Robb patent does not suggest how the device of the Yung patent might be modified to arrive at Applicants' claimed invention (Robb has only been relied upon for purposes of the teaching of internal webs 48).

The amendments to Claim 1 appearing in the accompanying listing of claims were also discussed. The Examiner observed that, as so amended, the claim appeared to patentably distinguish from the cited art. It was agreed that Applicants' attorney would make the amendments, together with a request for continued examination, in order that the Examiner might further consider the amendments and run an updated search.

The Amendments to Claims 1 and 24:

The amendments to Claim 1 are those which were discussed in the interviews with the Examiner. These more specifically define the orientation of the parts of the legs and, in particular, the "proximal ends" and the "distal" end portions.

The amendments to Claim 24 correspond to those of Claim 1.

The 35 USC § 103(a) Rejection:

This rejection is based upon a combination of the Yung and Robb patents. Yung is cited for the teaching of a rebar support chair having legs of a T-shaped cross-section, where the webs

of the legs extend outwardly, and Robb is cited for the suggestion that the webs of the Yung chair could extend inwardly. Neither patent teaches or suggests the provision of Applicants' specifically defined legs of a T-shaped cross-section wherein each leg has a free distal end portion separate from the other legs to provide free access between the legs. In Yung, the distal ends of the legs are connected by an encircling plate 20. Also, unlike Applicants' claimed legs, the feet of Yung (21-23) are not on the distal ends of the web portions, as called for by the claim.

The foregoing arguments concerning the shortcomings of the Yung and Robb patents and the distinguishing features of the claimed invention apply to both Claims 1 and 24. Accordingly, these claims are considered similarly allowable.

Rejected Claims 2, 5, 10 to 12 and 19 all depend from Claim 1. Accordingly, as to these dependent claims, the arguments set forth above is equally applicable. The base claim being allowable, these dependent claims are also considered allowable.

Rejected Claims 27, 32 and 38 all depend from Claim 24. Accordingly, as to these claims, the argument set forth above is equally applicable. The base claim being allowable, these dependent claims are also considered allowable.

Withdrawn Claims 6 to 9, 13 to 17 and 20-23:

The Office Action of April 2, 2007 indicated that Claim 1 was generic to species I, II, III, IV and V and that "Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all of the limitations of an allowance generic claim as provided by 37 CFR 1.141." Claim 1 now being

considered allowable, it is respectfully submitted that dependent Claims 6 to 9, 13 to 17 and 20 to 23 are similarly allowable.

Withdrawn Claims 28 to 31 and 33 to 36:

These claims depend from Claim 24. As Claim 24 is considered allowable and generic, similarly to Claim 1, Claims 28 to 31 and 33 to 36 are properly includable in the present application under the provisions of 37 CFR 1.141 and allowable.

Withdrawn Claims 39 and 40:

These claims are to the subcombination of the bearing plate shown in Figs. 12 to 16. It is respectfully requested that they be permitted to remain in the present application, pending its allowance and the possible filing of a divisional application addressed to their subject matter.

Summary:

The rejection of generic Claim 1 under the provisions of 35 USC § 103(a) has been demonstrated to be clearly avoided by the language of the claim. Claim 24 is also generic and has been similarly demonstrated to avoid the rejection under 35 USC § 103(a). Accordingly, these claims and the claims dependent thereon are considered clearly allowable.

Claims 39 and 40 have been withdrawn, pursuant to the election of species requirement and have been retained in the present application, pending its allowance and the possible filing of a divisional application directed to these claims.

Conclusion:

It is believed that this Amendment and Response places the above-identified patent application in condition for allowance. Early favorable consideration is solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of the application, the Examiner is invited to telephone Applicants' undersigned attorney.

Please charge any additional fee or credit any overpayment not otherwise paid or credited, to deposit account No. 50-0918.

Respectfully submitted,

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